

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference WN 9409 PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/010541	International filing date (<i>day/month/year</i>) 20.09.2004	Priority date (<i>day/month/year</i>) 14.11.2003
International Patent Classification (IPC) or national classification and IPC G07F7/06, B65G25/06, B65G25/08		
Applicant WINCOR NIXDORF INTERNATIONAL GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.																								
2. This REPORT consists of a total of <u>10</u> sheets, including this cover sheet.																								
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).																								
4. This report contains indications relating to the following items: <table border="0"><tr><td><input checked="" type="checkbox"/></td><td>Box No. I</td><td>Basis of the report</td></tr><tr><td><input type="checkbox"/></td><td>Box No. II</td><td>Priority</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. III</td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td><input type="checkbox"/></td><td>Box No. IV</td><td>Lack of unity of invention</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. V</td><td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VI</td><td>Certain documents cited</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. VII</td><td>Certain defects in the international application</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. VIII</td><td>Certain observations on the international application</td></tr></table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-10 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-18 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/6-6/6 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 15-18

because:

☐ the said international application, or the said claims Nos. _____
relate to the following subject matter which does not require an international preliminary examination (*specify*):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 15-18
are so unclear that no meaningful opinion could be formed (*specify*):

See Supplemental Box

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. _____

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-14	YES
	Claims		NO
Inventive step (IS)	Claims	1-14	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-14	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
4 Independent claim 1			
4.1 Document D1, which is considered the closest prior art and was cited by the applicant in the application, describes a unit for an automatic bottle return machine for returning bottles in a lying position,			
<ul style="list-style-type: none"> - having a conveyor device with a conveyor belt for transporting the containers in the direction of their longitudinal axis, - and rotating rollers having a lateral surface, which can be moved from a transport position to an identification position in which they disengage the container from the conveyor device and cause it to rotate, - wherein the rollers are each in the form of hollow bodies and have at least one perforation in the longitudinal direction, - wherein further at least one conveyor device is disposed in the rollers and the conveyor belt is disposed in the area of the perforation, - and wherein when the rotating rollers rotate 			

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>the lateral surfaces of the rollers extend beyond the conveyor belt of the conveyor device (all in claim 1 of document D1).</p> <p>4.2 The claimed subject matter differs from document D1 in that the rotation rollers and the conveyor device are disposed separately. This difference is clearly shown in figure 3 of document D1. The subject matter of the claim is therefore novel within the meaning of PCT Article 33(2).</p> <p>4.3 The technical effect of this difference must be considered to lie in the advantage that the conveyor device can be mounted immovably relative to the chassis of the claimed unit. Unlike in the case of the movably mounted conveyor device known from document D1, this results in a simpler design and therefore makes it less susceptible to defects.</p> <p>4.4 Proceeding from a device according to document D1, the technical problem to be solved would therefore appear to be that of further reducing production costs and susceptibility to defects and to be able to carry out routine maintenance at greater intervals.</p> <p>4.5 None of the prior art documents cited in the international search report suggests the claimed solution. It can be assumed that claim 1 involves an inventive step within PCT Article 33(3).</p>

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>The requirements of PCT Article 33(3) would appear to have been met.</p> <p>4.6 Insofar as it is possible to assess inventive step, owing to the lack of clarity, the subject matter of claim 13 appears to involve an inventive step in the same way as claim 1. Consequently, it is assumed that independent claim 13 also involves an inventive step.</p> <p>4.7 The above is also true for all claims directly or indirectly dependent on claims 1 and 13.</p>

Box No. VII **Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

5.1 The process claim 13 only in part claims process steps, and also claims structural features of a device or system (features following the em-dashes 1 and 4 in the preamble and (more significantly) the features following the em-dashes 8 and 9 in the characterizing part). This makes the subject matter for which protection is sought unclear. Claim 13 is therefore not clear within the meaning of PCT Article 6.

5.2 According to PCT Article 6 the entire set of claims becomes unclear if it contains more than one independent claim of a particular category. This the case with the present set of claims. Consequently, the International Searching Authority did not establish an opinion with regard to the additional independent claims (see Box III of the present report).

The applicant's attention is drawn to the fact that, even if the European Patent Office were to be chosen as International Preliminary Examination Authority, a plurality of independent claims of the same category would still not be acceptable.

Box No. VIII **Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

- 6.1 If the two-part form of independent claim 1 is maintained, the characterizing part should be restricted to the subject matter referred to in point 4.2 of the present report. The other features, which are at present specified in the characterizing part of the claims, should be included in the preamble.
- 6.2 For reasons of clarity (PCT Article 6) it would appear impossible to specify structural features in a process claim, as is currently the case (see point 5 of the present report). However, the subject matter which substantiates the inventive step (see points 4.2 and 4.3) appears to be a structural feature. At present it is not clear how a feature of this kind can be included in a process in such a way that it is also possible to formulate a process claim for the present invention which consists exclusively of process steps. It may therefore not be possible to formulate a process claim for the present invention.

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: **Boxes I and III**

Box I

Basis of the report

1 Prior art

The present report refers to the following documents (D1-D4); the same numbering will be used throughout the procedure:

D1: EP-A-1 167 247 (BEVESYS OY) 2 January 2002
(2002-01-02)

D2: US 2003/187546 A1 (HOLMEN KRISTIAN ET AL) 2
October 2003 (2003-10-02)

D3: US-A-5 934 440 (KROGHRUD ET AL) 10 August 1999
(1999-08-10)

D4: US-A-4 151 908 (BRUSA, UGO) 1 May 1979 (1979-
05-01) .

2 Abstract

The claims are not clear (PCT Article 6). However, to the extent that an examination with regard to novelty and inventive step was carried out, they appear to satisfy the requirements of PCT Article 33.

Supplemental Box

Box III

**Non-establishment of opinion with regard to novelty,
inventive step and industrial applicability**

- 3.1 The application contains several independent claims of the same category. In particular, claims 1, 15 and 17 are all system claims. The large number of independent claims in the same category makes the scope of protection sought vague. Consequently, the claims are not clear.
- 3.2 The present report examines only the first independent claim of the above category with regard to novelty and inventive step. No opinion is established for claims 15 and 17.